



## KEY QUESTIONS TO POSE BEFORE YOU DISCLOSE

### MENTAL / BEHAVIORAL HEALTH TREATMENT RECORDS

#### When is a patient authorization NOT required?

##### The following uses and disclosures are permitted:

- Board, commission, or administrative agency for adjudication
- Required by law
- Health oversight agencies
- Limited uses for internal training programs
- Probate court investigator
- Provider competency review
- Third party for encoding, encrypting, anonymizing data
- Coroner investigation
- Court order
- Elder and child abuse
- Emergency medical personnel
- Inmates: treatment, health, safety, good order facility
- Funeral directors
- Payment
- Payor billing
- Treatment
- Disability Rights California
- National Defense – Protect President
- Organ procurement agency
- Patient representative
- Public health reporting
- Quality assurance
- Search warrant
- Secretary of US DHHS
- State or Federal disaster relief agency

**Note:** If you are an acute psychiatric hospital, inpatient psychiatric unit, government-operated hospital or clinic, or a health care provider serving involuntarily detained mental health patients, refer to **the Lanterman-Petris-Short (LPS) Act Patient Authorization Tool**.

#### Who Must Comply?

Providers  
of  
Health Care

Mental  
Health  
Services:

Private acute care  
hospitals with no  
psychiatric unit  
(voluntary  
patients)

Private  
Psychotherapists

#### In All Cases:

- ✓ Validate the identity and authority of the individual requesting the information
- ✓ Develop internal written procedures and train employees on the requirements
- ✓ Limit the disclosure to what is described in the authorization
- ✓ Account for the disclosure within the patients record as required by the HIPAA Privacy Rule
- ✓ Designate individual(s) to process disclosure requests



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The Information Practices Act (IPA) Civil Code §§ 1798-1798.78 applies to state agencies.  
Staff should check with their legal office regarding permissive uses and disclosures under the IPA.

What are important  
terms to know?

#### Authorization



Release of Information (ROI) or authorization means permission granted in accordance with Confidentiality of Medical Information Act (CMIA), Civil Code § 56.11 or § 56.21 and HIPAA 45 CFR § 164.508 (c) for the disclosure of medical information.

#### Provider of Health Care



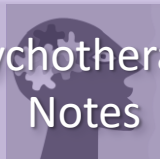
"Provider of Health Care" means any person licensed or certified pursuant to Division 2 (commencing with § 500) of the Business and Professions Code; any person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act; any person certified pursuant to Division 2.5 (commencing with § 1797) of the Health and Safety Code; any clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with § 1200) of the Health and Safety Code.  
"Provider of Health Care" does not include insurance institutions as defined in subdivision (k) of § 791.02 of the Insurance Code. CMIA, Civil Code §§ 56-56.16

#### Mental Health Records



California's definition: patient records, or discrete portions thereof, specifically relating to evaluation or treatment of a mental or personality disorder or disease not related to substance abuse treatment records.  
Note: Substance abuse treatment records have additional protections.  
Refer to the **Substance Abuse Patient Authorization Tool**.

#### Psychotherapy Notes



Personal counseling notes kept separate from the medical record.  
If they are requested, contact your legal counsel.